

Union Calendar No. 240

104TH CONGRESS
2D Session

H. R. 2337

[Report No. 104-506]

A BILL

To amend the Internal Revenue Code of 1986 to
provide for increased taxpayer protections.

MARCH 28, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 14, 1995

Mrs. JOHNSON of Connecticut (for herself and Mr. MATSUI) introduced the following bill; which was referred to the Committee on Ways and Means

MARCH 28, 1996

Additional sponsors: Mr. SPRATT, Mr. SCHIFF, Mr. WICKER, and Mr. CRAMER

MARCH 28, 1996

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in *italie*]

[For text of introduced bill, see copy of bill as introduced on September 14, 1995]

A BILL

To amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE;**

2 **TABLE OF CONTENTS.**

3 (a) *SHORT TITLE.*—*This Act may be cited as the*
 4 *“Taxpayer Bill of Rights 2”.*

5 (b) *AMENDMENT OF 1986 CODE.*—*Except as otherwise*
 6 *expressly provided, whenever in this Act an amendment or*
 7 *repeal is expressed in terms of an amendment to, or repeal*
 8 *of, a section or other provision, the reference shall be consid-*
 9 *ered to be made to a section or other provision of the Inter-*
 10 *nal Revenue Code of 1986.*

11 (c) *TABLE OF CONTENTS.*—

Sec. 1. Short title; amendment of 1986 Code; table of contents.

TITLE I—TAXPAYER ADVOCATE

Sec. 101. Establishment of position of Taxpayer Advocate within Internal Revenue Service.

Sec. 102. Expansion of authority to issue Taxpayer Assistance Orders.

TITLE II—MODIFICATIONS TO INSTALLMENT AGREEMENT PROVISIONS

Sec. 201. Notification of reasons for termination of installment agreements.

Sec. 202. Administrative review of termination of installment agreement.

TITLE III—ABATEMENT OF INTEREST AND PENALTIES

Sec. 301. Expansion of authority to abate interest.

Sec. 302. Review of IRS failure to abate interest.

Sec. 303. Extension of interest-free period for payment of tax after notice and demand.

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TITLE IV—JOINT RETURNS

Sec. 401. Studies of joint return-related issues.

Sec. 402. Joint return may be made after separate returns without full payment of tax.

Sec. 403. Disclosure of collection activities.

TITLE V—COLLECTION ACTIVITIES

Sec. 501. Modifications to lien and levy provisions.

Sec. 502. Modifications to certain levy exemption amounts.

Sec. 503. Offers-in-compromise.

TITLE VI—INFORMATION RETURNS

Sec. 601. Civil damages for fraudulent filing of information returns.

Sec. 602. Requirement to conduct reasonable investigations of information returns.

TITLE VII—AWARDING OF COSTS AND CERTAIN FEES

Sec. 701. United States must establish that its position in proceeding was substantially justified.

Sec. 702. Increased limit on attorney fees.

Sec. 703. Failure to agree to extension not taken into account.

Sec. 704. Award of litigation costs permitted in declaratory judgment proceedings.

TITLE VIII—MODIFICATION TO RECOVERY OF CIVIL DAMAGES FOR UNAUTHORIZED COLLECTION ACTIONS

Sec. 801. Increase in limit on recovery of civil damages for unauthorized collection actions.

Sec. 802. Court discretion to reduce award for litigation costs for failure to exhaust administrative remedies.

TITLE IX—MODIFICATIONS TO PENALTY FOR FAILURE TO COLLECT AND PAY OVER TAX

Sec. 901. Preliminary notice requirement.

Sec. 902. Disclosure of certain information where more than 1 person liable for penalty for failure to collect and pay over tax.

Sec. 903. Right of contribution where more than 1 person liable for penalty for failure to collect and pay over tax.

Sec. 904. Volunteer board members of tax-exempt organizations exempt from penalty for failure to collect and pay over tax.

TITLE X—MODIFICATIONS OF RULES RELATING TO SUMMONSES

Sec. 1001. Enrolled agents included as third-party recordkeepers.

Sec. 1002. Safeguards relating to designated summonses.

Sec. 1003. Annual report to Congress concerning designated summonses.

TITLE XI—RELIEF FROM RETROACTIVE APPLICATION OF TREASURY DEPARTMENT REGULATIONS

Sec. 1101. Relief from retroactive application of Treasury Department regulations.

TITLE XII—MISCELLANEOUS PROVISIONS

Sec. 1201. Phone number of person providing payee statements required to be shown on such statement.

Sec. 1202. Required notice of certain payments.

Sec. 1203. Unauthorized enticement of information disclosure.

Sec. 1204. Annual reminders to taxpayers with outstanding delinquent accounts.

Sec. 1205. 5-year extension of authority for undercover operations.

Sec. 1206. Disclosure of Form 8300 information on cash transactions.

Sec. 1207. Disclosure of returns and return information to designee of taxpayer.

Sec. 1208. Study of netting of interest on overpayments and liabilities.
Sec. 1209. Expenses of detection of underpayments and fraud, etc.
Sec. 1210. Use of private delivery services for timely-mailing-as-timely-filing rule.
Sec. 1211. Reports on misconduct of IRS employees.

TITLE XIII—REVENUE OFFSETS

Subtitle A—Application of Failure-to-Pay Penalty to Substitute Returns

Sec. 1301. Application of failure-to-pay penalty to substitute returns.

Subtitle B—Excise Taxes on Amounts of Private Excess Benefits

Sec. 1311. Excise taxes for failure by certain charitable organizations to meet certain qualification requirements.
Sec. 1312. Reporting of certain excise taxes and other information.
Sec. 1313. Exempt organizations required to provide copy of return.
Sec. 1314. Increase in penalties on exempt organizations for failure to file complete and timely annual returns.

1 TITLE I—TAXPAYER ADVOCATE

2 SEC. 101. ESTABLISHMENT OF POSITION OF TAXPAYER AD-

3 VOCATE WITHIN INTERNAL REVENUE SERV-

4 ICE.

5 (a) *GENERAL RULE.*—Section 7802 (relating to Com-
6 *missioner of Internal Revenue; Assistant Commissioner*
7 *(Employee Plans and Exempt Organizations)) is amended*
8 *by adding at the end the following new subsection:*

9 “(d) *OFFICE OF TAXPAYER ADVOCATE.*—

10 “(1) *IN GENERAL.*—There is established in the
11 *Internal Revenue Service an office to be known as the*
12 *‘Office of the Taxpayer Advocate’. Such office shall be*
13 *under the supervision and direction of an official to*
14 *be known as the ‘Taxpayer Advocate’ who shall be ap-*
15 *pointed by and report directly to the Commissioner of*
16 *Internal Revenue. The Taxpayer Advocate shall be en-*
17 *titled to compensation at the same rate as the highest*

1 *level official reporting directly to the Deputy Com-*
 2 *missioner of the Internal Revenue Service.*

3 *“(2) FUNCTIONS OF OFFICE.—*

4 *“(A) IN GENERAL.—It shall be the function*
 5 *of the Office of Taxpayer Advocate to—*

6 *“(i) assist taxpayers in resolving prob-*
 7 *lems with the Internal Revenue Service,*

8 *“(ii) identify areas in which taxpayers*
 9 *have problems in dealings with the Internal*
 10 *Revenue Service,*

11 *“(iii) to the extent possible, propose*
 12 *changes in the administrative practices of*
 13 *the Internal Revenue Service to mitigate*
 14 *problems identified under clause (ii), and*

15 *“(iv) identify potential legislative*
 16 *changes which may be appropriate to miti-*
 17 *gate such problems.*

18 *“(B) ANNUAL REPORTS.—*

19 *“(i) OBJECTIVES.—Not later than*
 20 *June 30 of each calendar year after 1995,*
 21 *the Taxpayer Advocate shall report to the*
 22 *Committee on Ways and Means of the*
 23 *House of Representatives and the Committee*
 24 *on Finance of the Senate on the objectives*
 25 *of the Taxpayer Advocate for the fiscal year*

1 *beginning in such calendar year. Any such*
2 *report shall contain full and substantive*
3 *analysis, in addition to statistical informa-*
4 *tion.*

5 *“(ii) ACTIVITIES.—Not later than De-*
6 *cember 31 of each calendar year after 1995,*
7 *the Taxpayer Advocate shall report to the*
8 *Committee on Ways and Means of the*
9 *House of Representatives and the Committee*
10 *on Finance of the Senate on the activities of*
11 *the Taxpayer Advocate during the fiscal*
12 *year ending during such calendar year. Any*
13 *such report shall contain full and sub-*
14 *stantive analysis, in addition to statistical*
15 *information, and shall—*

16 *“(I) identify the initiatives the*
17 *Taxpayer Advocate has taken on im-*
18 *proving taxpayer services and Internal*
19 *Revenue Service responsiveness,*

20 *“(II) contain recommendations*
21 *received from individuals with the au-*
22 *thority to issue Taxpayer Assistance*
23 *Orders under section 7811,*

24 *“(III) contain a summary of at*
25 *least 20 of the most serious problems*

1 *encountered by taxpayers, including a*
2 *description of the nature of such prob-*
3 *lems,*

4 *“(IV) contain an inventory of the*
5 *items described in subclauses (I), (II),*
6 *and (III) for which action has been*
7 *taken and the result of such action,*

8 *“(V) contain an inventory of the*
9 *items described in subclauses (I), (II),*
10 *and (III) for which action remains to*
11 *be completed and the period during*
12 *which each item has remained on such*
13 *inventory,*

14 *“(VI) contain an inventory of the*
15 *items described in subclauses (II) and*
16 *(III) for which no action has been*
17 *taken, the period during which each*
18 *item has remained on such inventory,*
19 *the reasons for the inaction, and iden-*
20 *tify any Internal Revenue Service offi-*
21 *cial who is responsible for such inac-*
22 *tion,*

23 *“(VII) identify any Taxpayer As-*
24 *sistance Order which was not honored*
25 *by the Internal Revenue Service in a*

1 *timely manner, as specified under sec-*
2 *tion 7811(b),*

3 *“(VIII) contain recommendations*
4 *for such administrative and legislative*
5 *action as may be appropriate to re-*
6 *solve problems encountered by tax-*
7 *payers,*

8 *“(IX) describe the extent to which*
9 *regional problem resolution officers*
10 *participate in the selection and evalua-*
11 *tion of local problem resolution officers,*
12 *and*

13 *“(X) include such other informa-*
14 *tion as the Taxpayer Advocate may*
15 *deem advisable.*

16 *“(iii) REPORT TO BE SUBMITTED DI-*
17 *RECTLY.—Each report required under this*
18 *subparagraph shall be provided directly to*
19 *the Committees referred to in clauses (i)*
20 *and (ii) without any prior review or com-*
21 *ment from the Commissioner, the Secretary*
22 *of the Treasury, any other officer or em-*
23 *ployee of the Department of the Treasury,*
24 *or the Office of Management and Budget.*

1 “(3) *RESPONSIBILITIES OF COMMISSIONER.*—The
 2 *Commissioner of Internal Revenue shall establish pro-*
 3 *cedures requiring a formal response to all rec-*
 4 *ommendations submitted to the Commissioner by the*
 5 *Taxpayer Advocate within 3 months after submission*
 6 *to the Commissioner.*”

7 **(b) CONFORMING AMENDMENTS.**—

8 (1) *Section 7811 (relating to Taxpayer Assist-*
 9 *ance Orders) is amended—*

10 (A) *by striking “the Office of Ombudsman”*
 11 *in subsection (a) and inserting “the Office of the*
 12 *Taxpayer Advocate”, and*

13 (B) *by striking “Ombudsman” each place it*
 14 *appears (including in the headings of subsections*
 15 *(e) and (f)) and inserting “Taxpayer Advocate”.*

16 (2) *The heading for section 7802 is amended to*
 17 *read as follows:*

18 **“SEC. 7802. COMMISSIONER OF INTERNAL REVENUE; AS-**
 19 **SISTANT COMMISSIONERS; TAXPAYER ADVO-**
 20 **CATE.”**

21 (3) *The table of sections for subchapter A of*
 22 *chapter 80 is amended by striking the item relating*
 23 *to section 7802 and inserting the following new item:*

 “Sec. 7802. *Commissioner of Internal Revenue; Assistant Commis-*
 sioners; Taxpayer Advocate.”

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the date of the enactment of this*
 3 *Act.*

4 ***SEC. 102. EXPANSION OF AUTHORITY TO ISSUE TAXPAYER***
 5 ***ASSISTANCE ORDERS.***

6 (a) *TERMS OF ORDERS.*—*Subsection (b) of section*
 7 *7811 (relating to terms of Taxpayer Assistance Orders) is*
 8 *amended—*

9 (1) *by inserting “within a specified time period”*
 10 *after “the Secretary”, and*

11 (2) *by inserting “take any action as permitted*
 12 *by law,” after “cease any action,”.*

13 (b) *LIMITATION ON AUTHORITY TO MODIFY OR RE-*
 14 *SCIND.*—*Section 7811(c) (relating to authority to modify*
 15 *or rescind) is amended to read as follows:*

16 “(c) *AUTHORITY TO MODIFY OR RESCIND.*—*Any Tax-*
 17 *payer Assistance Order issued by the Taxpayer Advocate*
 18 *under this section may be modified or rescinded—*

19 “(1) *only by the Taxpayer Advocate, the Com-*
 20 *missioner of Internal Revenue, or the Deputy Com-*
 21 *missioner of Internal Revenue, and*

22 “(2) *only if a written explanation of the reasons*
 23 *for the modification or rescission is provided to the*
 24 *Taxpayer Advocate.”*

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall take effect on the date of the enactment of this*
 3 *Act.*

4 ***TITLE II—MODIFICATIONS TO IN-***
 5 ***STALLMENT AGREEMENT***
 6 ***PROVISIONS***

7 ***SEC. 201. NOTIFICATION OF REASONS FOR TERMINATION***
 8 ***OF INSTALLMENT AGREEMENTS.***

9 (a) *TERMINATIONS.*—*Subsection (b) of section 6159*
 10 *(relating to extent to which agreements remain in effect)*
 11 *is amended by adding at the end the following new para-*
 12 *graph:*

13 “(5) *NOTICE REQUIREMENTS.*—*The Secretary*
 14 *may not take any action under paragraph (2), (3),*
 15 *or (4) unless—*

16 “(A) *a notice of such action is provided to*
 17 *the taxpayer not later than the day 30 days be-*
 18 *fore the date of such action, and*

19 “(B) *such notice includes an explanation*
 20 *why the Secretary intends to take such action.*

21 *The preceding sentence shall not apply in any case in*
 22 *which the Secretary believes that collection of any tax*
 23 *to which an agreement under this section relates is in*
 24 *jeopardy.”*

1 (b) *CONFORMING AMENDMENT.*—Paragraph (3) of sec-
 2 tion 6159(b) is amended to read as follows:

3 “(3) *SUBSEQUENT CHANGE IN FINANCIAL CONDI-*
 4 *TIONS.*—If the Secretary makes a determination that
 5 the financial condition of a taxpayer with whom the
 6 Secretary has entered into an agreement under sub-
 7 section (a) has significantly changed, the Secretary
 8 may alter, modify, or terminate such agreement.”

9 (c) *EFFECTIVE DATE.*—The amendments made by this
 10 section shall take effect on the date 6 months after the date
 11 of the enactment of this Act.

12 ***SEC. 202. ADMINISTRATIVE REVIEW OF TERMINATION OF***
 13 ***INSTALLMENT AGREEMENT.***

14 (a) *GENERAL RULE.*—Section 6159 (relating to agree-
 15 ments for payment of tax liability in installments) is
 16 amended by adding at the end the following new subsection:

17 “(c) *ADMINISTRATIVE REVIEW.*—The Secretary shall
 18 establish procedures for an independent administrative re-
 19 view of terminations of installment agreements under this
 20 section for taxpayers who request such a review.”

21 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 22 section (a) shall take effect on January 1, 1997.

***TITLE III—ABATEMENT OF
INTEREST AND PENALTIES***

SEC. 301. EXPANSION OF AUTHORITY TO ABATE INTEREST.

(a) GENERAL RULE.—Paragraph (1) of section 6404(e) (relating to abatement of interest in certain cases) is amended—

(1) by inserting “unreasonable” before “error” each place it appears in subparagraphs (A) and (B), and

(2) by striking “in performing a ministerial act” each place it appears and inserting “in performing a ministerial or managerial act”.

(b) CLERICAL AMENDMENT.—The subsection heading for subsection (e) of section 6404 is amended—

(1) by striking “ASSESSMENTS” and inserting “ABATEMENT”, and

(2) by inserting “UNREASONABLE” before “ERRORS”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to interest accruing with respect to deficiencies or payments for taxable years beginning after the date of the enactment of this Act.

SEC. 302. REVIEW OF IRS FAILURE TO ABATE INTEREST.

(a) IN GENERAL.—Section 6404 is amended by adding at the end the following new subsection:

1 “(g) *REVIEW OF DENIAL OF REQUEST FOR ABATE-*
2 *MENT OF INTEREST.*—

3 “(1) *IN GENERAL.*—*The Tax Court shall have ju-*
4 *risdiction over any action brought by a taxpayer who*
5 *meets the requirements referred to in section*
6 *7430(c)(4)(A)(iii) to determine whether the Sec-*
7 *retary’s failure to abate interest under this section*
8 *was an abuse of discretion, and may order an abate-*
9 *ment, if such action is brought within 180 days after*
10 *the date of the mailing of the Secretary’s final deter-*
11 *mination not to abate such interest.*

12 “(2) *SPECIAL RULES.*—

13 “(A) *DATE OF MAILING.*—*Rules similar to*
14 *the rules of section 6213 shall apply for purposes*
15 *of determining the date of the mailing referred to*
16 *in paragraph (1).*

17 “(B) *RELIEF.*—*Rules similar to the rules of*
18 *section 6512(b) shall apply for purposes of this*
19 *subsection.*

20 “(C) *REVIEW.*—*An order of the Tax Court*
21 *under this subsection shall be reviewable in the*
22 *same manner as a decision of the Tax Court, but*
23 *only with respect to the matters determined in*
24 *such order.”*

1 (b) *EFFECTIVE DATE.*—*The amendment made by this*
 2 *section shall apply to requests for abatement after the date*
 3 *of the enactment of this Act.*

4 ***SEC. 303. EXTENSION OF INTEREST-FREE PERIOD FOR PAY-***
 5 ***MENT OF TAX AFTER NOTICE AND DEMAND.***

6 (a) *GENERAL RULE.*—*Paragraph (3) of section*
 7 *6601(e) (relating to payments made within 10 days after*
 8 *notice and demand) is amended to read as follows:*

9 “(3) *PAYMENTS MADE WITHIN SPECIFIED PE-*
 10 *RIOD AFTER NOTICE AND DEMAND.*—*If notice and de-*
 11 *mand is made for payment of any amount and if*
 12 *such amount is paid within 21 calendar days (10*
 13 *business days if the amount for which such notice and*
 14 *demand is made equals or exceeds \$100,000) after the*
 15 *date of such notice and demand, interest under this*
 16 *section on the amount so paid shall not be imposed*
 17 *for the period after the date of such notice and de-*
 18 *mand.”*

19 (b) *CONFORMING AMENDMENTS.*—

20 (1) *Subparagraph (A) of section 6601(e)(2) is*
 21 *amended by striking “10 days from the date of notice*
 22 *and demand therefor” and inserting “21 calendar*
 23 *days from the date of notice and demand therefor (10*
 24 *business days if the amount for which such notice and*
 25 *demand is made equals or exceeds \$100,000)”.*

1 (2) Paragraph (3) of section 6651(a) is amended
 2 by striking “10 days of the date of the notice and de-
 3 mand therefor” and inserting “21 calendar days from
 4 the date of notice and demand therefor (10 business
 5 days if the amount for which such notice and demand
 6 is made equals or exceeds \$100,000)”.

7 (c) *EFFECTIVE DATE.*—The amendments made by this
 8 section shall apply in the case of any notice and demand
 9 given after December 31, 1996.

10 **SEC. 304. ABATEMENT OF PENALTY FOR FAILURE TO MAKE**
 11 **REQUIRED DEPOSITS OF PAYROLL TAXES IN**
 12 **CERTAIN CASES.**

13 (a) *IN GENERAL.*—Section 6656 (relating to failure to
 14 make deposit of taxes) is amended by adding at the end
 15 the following new subsections:

16 “(c) *EXCEPTION FOR FIRST-TIME DEPOSITORS OF*
 17 *EMPLOYMENT TAXES.*—The Secretary may waive the pen-
 18 alty imposed by subsection (a) on a person’s inadvertent
 19 failure to deposit any employment tax if—

20 “(1) such person meets the requirements referred
 21 to in section 7430(c)(4)(A)(iii),

22 “(2) such failure occurs during the 1st quarter
 23 that such person was required to deposit any employ-
 24 ment tax, and

1 “(3) the return of such tax was filed on or before
2 the due date.

3 For purposes of this subsection, the term ‘employment taxes’
4 means the taxes imposed by subtitle C.

5 “(d) *AUTHORITY TO ABATE PENALTY WHERE DE-*
6 *POSIT SENT TO SECRETARY.*—The Secretary may abate the
7 penalty imposed by subsection (a) with respect to the first
8 time a depositor is required to make a deposit if the amount
9 required to be deposited is inadvertently sent to the Sec-
10 retary instead of to the appropriate government deposi-
11 tory.”

12 (b) *EFFECTIVE DATE.*—The amendment made by sub-
13 section (a) shall apply to deposits required to be made after
14 the date of the enactment of this Act.

15 ***TITLE IV—JOINT RETURNS***

16 ***SEC. 401. STUDIES OF JOINT RETURN-RELATED ISSUES.***

17 The Secretary of the Treasury or his delegate and the
18 Comptroller General of the United States shall each conduct
19 separate studies of—

20 (1) the effects of changing the liability for tax on
21 a joint return from being joint and several to being
22 proportionate to the tax attributable to each spouse,

23 (2) the effects of providing that, if a divorce de-
24 cree allocates liability for tax on a joint return filed

1 *before the divorce, the Secretary may collect such li-*
 2 *ability only in accordance with the decree,*

3 *(3) whether those provisions of the Internal Reve-*
 4 *nue Code of 1986 intended to provide relief to inno-*
 5 *cent spouses provide meaningful relief in all cases*
 6 *where such relief is appropriate, and*

7 *(4) the effect of providing that community in-*
 8 *come (as defined in section 66(d) of such Code) which,*
 9 *in accordance with the rules contained in section*
 10 *879(a) of such Code, would be treated as the income*
 11 *of one spouse is exempt from a levy for failure to pay*
 12 *any tax imposed by subtitle A by the other spouse for*
 13 *a taxable year ending before their marriage.*

14 *The reports of such studies shall be submitted to the Com-*
 15 *mittee on Ways and Means of the House of Representatives*
 16 *and the Committee on Finance of the Senate within 6*
 17 *months after the date of the enactment of this Act.*

18 ***SEC. 402. JOINT RETURN MAY BE MADE AFTER SEPARATE***

19 ***RETURNS WITHOUT FULL PAYMENT OF TAX.***

20 *(a) GENERAL RULE.—Paragraph (2) of section*
 21 *6013(b) (relating to limitations on filing of joint return*
 22 *after filing separate returns) is amended by striking sub-*
 23 *paragraph (A) and redesignating the following subpara-*
 24 *graphs accordingly.*

1 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 2 section (a) shall apply to taxable years beginning after the
 3 date of the enactment of this Act.

4 **SEC. 403. DISCLOSURE OF COLLECTION ACTIVITIES.**

5 (a) *IN GENERAL.*—Subsection (e) of section 6103 (re-
 6 lating to disclosure to persons having material interest) is
 7 amended by adding at the end the following new paragraph:

8 “(8) *DISCLOSURE OF COLLECTION ACTIVITIES*
 9 *WITH RESPECT TO JOINT RETURN.*—If any deficiency
 10 of tax with respect to a joint return is assessed and
 11 the individuals filing such return are no longer mar-
 12 ried or no longer reside in the same household, upon
 13 request in writing by either of such individuals, the
 14 Secretary shall disclose in writing to the individual
 15 making the request whether the Secretary has at-
 16 tempted to collect such deficiency from such other in-
 17 dividual, the general nature of such collection activi-
 18 ties, and the amount collected. The preceding sentence
 19 shall not apply to any deficiency which may not be
 20 collected by reason of section 6502.”

21 (b) *EFFECTIVE DATE.*—The amendment made by this
 22 section shall apply to requests made after the date of the
 23 enactment of this Act.

***TITLE V—COLLECTION
ACTIVITIES***

SEC. 501. MODIFICATIONS TO LIEN AND LEVY PROVISIONS.

(a) WITHDRAWAL OF CERTAIN NOTICES.—Section 6323 (relating to validity and priority against certain persons) is amended by adding at the end the following new subsection:

“(j) WITHDRAWAL OF NOTICE IN CERTAIN CIRCUMSTANCES.—

“(1) IN GENERAL.—The Secretary may withdraw a notice of a lien filed under this section and this chapter shall be applied as if the withdrawn notice had not been filed, if the Secretary determines that—

“(A) the filing of such notice was premature or otherwise not in accordance with administrative procedures of the Secretary,

“(B) the taxpayer has entered into an agreement under section 6159 to satisfy the tax liability for which the lien was imposed by means of installment payments, unless such agreement provides otherwise,

“(C) the withdrawal of such notice will facilitate the collection of the tax liability, or

1 “(D) *with the consent of the taxpayer or the*
 2 *Taxpayer Advocate, the withdrawal of such no-*
 3 *tice would be in the best interests of the taxpayer*
 4 *(as determined by the Taxpayer Advocate) and*
 5 *the United States.*

6 *Any such withdrawal shall be made by filing notice*
 7 *at the same office as the withdrawn notice. A copy of*
 8 *such notice of withdrawal shall be provided to the*
 9 *taxpayer.*

10 “(2) *NOTICE TO CREDIT AGENCIES, ETC.—Upon*
 11 *written request by the taxpayer with respect to whom*
 12 *a notice of a lien was withdrawn under paragraph*
 13 *(1), the Secretary shall promptly make reasonable ef-*
 14 *forts to notify credit reporting agencies, and any fi-*
 15 *nancial institution or creditor whose name and ad-*
 16 *dress is specified in such request, of the withdrawal*
 17 *of such notice. Any such request shall be in such form*
 18 *as the Secretary may prescribe.”*

19 “(b) *RETURN OF LEVIED PROPERTY IN CERTAIN*
 20 *CASES.—Section 6343 (relating to authority to release levy*
 21 *and return property) is amended by adding at the end the*
 22 *following new subsection:*

23 “(d) *RETURN OF PROPERTY IN CERTAIN CASES.—If—*

24 “(1) *any property has been levied upon, and*

25 “(2) *the Secretary determines that—*

1 “(A) the levy on such property was pre-
2 mature or otherwise not in accordance with ad-
3 ministrative procedures of the Secretary,

4 “(B) the taxpayer has entered into an
5 agreement under section 6159 to satisfy the tax
6 liability for which the levy was imposed by
7 means of installment payments, unless such
8 agreement provides otherwise,

9 “(C) the return of such property will facili-
10 tate the collection of the tax liability, or

11 “(D) with the consent of the taxpayer or the
12 Taxpayer Advocate, the return of such property
13 would be in the best interests of the taxpayer (as
14 determined by the Taxpayer Advocate) and the
15 United States,

16 the provisions of subsection (b) shall apply in the same
17 manner as if such property had been wrongly levied upon,
18 except that no interest shall be allowed under subsection
19 (c).”

20 (d) *EFFECTIVE DATE.*—The amendments made by this
21 section shall take effect on the date of the enactment of this
22 Act.

1 **SEC. 502. MODIFICATIONS TO CERTAIN LEVY EXEMPTION**
 2 **AMOUNTS.**

3 (a) *FUEL, ETC.*—Paragraph (2) of section 6334(a) (re-
 4 lating to fuel, provisions, furniture, and personal effects ex-
 5 empt from levy) is amended—

6 (1) by striking “If the taxpayer is the head of a
 7 family, so” and inserting “So”,

8 (2) by striking “his household” and inserting
 9 “the taxpayer’s household”, and

10 (3) by striking “\$1,650 (\$1,550 in the case of
 11 levies issued during 1989)” and inserting “\$2,500”.

12 (b) *BOOKS, ETC.*—Paragraph (3) of section 6334(a)
 13 (relating to books and tools of a trade, business, or profes-
 14 sion) is amended by striking “\$1,100 (\$1,050 in the case
 15 of levies issued during 1989)” and inserting “\$1,250”.

16 (c) *INFLATION ADJUSTMENT.*—Section 6334 (relating
 17 to property exempt from levy) is amended by adding at the
 18 end the following new subsection:

19 “(f) *INFLATION ADJUSTMENT.*—

20 “(1) *IN GENERAL.*—In the case of any calendar
 21 year beginning after 1997, each dollar amount re-
 22 ferred to in paragraphs (2) and (3) of subsection (a)
 23 shall be increased by an amount equal to—

24 “(A) such dollar amount, multiplied by

25 “(B) the cost-of-living adjustment deter-
 26 mined under section 1(f)(3) for such calendar

1 year, by substituting ‘calendar year 1996’ for
 2 ‘calendar year 1992’ in subparagraph (B) there-
 3 of.

4 “(2) *ROUNDING*.—If any dollar amount after
 5 being increased under paragraph (1) is not a mul-
 6 tiple of \$10, such dollar amount shall be rounded to
 7 the nearest multiple of \$10.”.

8 (d) *EFFECTIVE DATE*.—The amendments made by this
 9 section shall take effect with respect to levies issued after
 10 December 31, 1996.

11 **SEC. 503. OFFERS-IN-COMPROMISE.**

12 (a) *REVIEW REQUIREMENTS*.—Subsection (b) of sec-
 13 tion 7122 (relating to records) is amended by striking
 14 “\$500.” and inserting “\$50,000. However, such compromise
 15 shall be subject to continuing quality review by the Sec-
 16 retary.”.

17 (b) *EFFECTIVE DATE*.—The amendment made by this
 18 section shall take effect on the date of the enactment of this
 19 Act.

20 **TITLE VI—INFORMATION**
 21 **RETURNS**

22 **SEC. 601. CIVIL DAMAGES FOR FRAUDULENT FILING OF IN-**
 23 **FORMATION RETURNS.**

24 (a) *GENERAL RULE*.—Subchapter B of chapter 76 (re-
 25 lating to proceedings by taxpayers and third parties) is

1 amended by redesignating section 7434 as section 7435 and
2 by inserting after section 7433 the following new section:

3 ***“SEC. 7434. CIVIL DAMAGES FOR FRAUDULENT FILING OF***
4 ***INFORMATION RETURNS.***

5 *“(a) IN GENERAL.—If any person willfully files a*
6 *fraudulent information return with respect to payments*
7 *purported to be made to any other person, such other person*
8 *may bring a civil action for damages against the person*
9 *so filing such return.*

10 *“(b) DAMAGES.—In any action brought under sub-*
11 *section (a), upon a finding of liability on the part of the*
12 *defendant, the defendant shall be liable to the plaintiff in*
13 *an amount equal to the greater of \$5,000 or the sum of—*

14 *“(1) any actual damages sustained by the plain-*
15 *tiff as a proximate result of the filing of the fraudu-*
16 *lent information return (including any costs attrib-*
17 *utable to resolving deficiencies asserted as a result of*
18 *such filing),*

19 *“(2) the costs of the action, and*

20 *“(3) in the court’s discretion, reasonable attor-*
21 *neys fees.*

22 *“(c) PERIOD FOR BRINGING ACTION.—Notwithstand-*
23 *ing any other provision of law, an action to enforce the*
24 *liability created under this section may be brought without*

5 “(2) 1 year after the date such fraudulent infor-
6 mation return would have been discovered by exercise
7 of reasonable care.

12 “(e) *FINDING OF COURT TO INCLUDE CORRECT*
13 *AMOUNT OF PAYMENT.*—*The decision of the court awarding*
14 *damages in an action brought under subsection (a) shall*
15 *include a finding of the correct amount which should have*
16 *been reported in the information return.*

(b) *CLERICAL AMENDMENT.*—The table of sections for subchapter B of chapter 76 is amended by striking the item relating to section 7434 and inserting the following:

“Sec. 7435. Cross references.”

1 (c) *EFFECTIVE DATE.*—*The amendments made by this*
 2 *section shall apply to fraudulent information returns filed*
 3 *after the date of the enactment of this Act.*

4 ***SEC. 602. REQUIREMENT TO CONDUCT REASONABLE INVES-***
 5 ***TIGATIONS OF INFORMATION RETURNS.***

6 (a) *GENERAL RULE.*—*Section 6201 (relating to assess-*
 7 *ment authority) is amended by redesignating subsection (d)*
 8 *as subsection (e) and by inserting after subsection (c) the*
 9 *following new subsection:*

10 “(d) *REQUIRED REASONABLE VERIFICATION OF IN-*
 11 *FORMATION RETURNS.*—*In any court proceeding, if a tax-*
 12 *payer asserts a reasonable dispute with respect to any item*
 13 *of income reported on an information return filed with the*
 14 *Secretary under subpart B or C of part III of subchapter*
 15 *A of chapter 61 by a third party and the taxpayer has fully*
 16 *cooperated with the Secretary (including providing, within*
 17 *a reasonable period of time, access to and inspection of all*
 18 *witnesses, information, and documents within the control*
 19 *of the taxpayer as reasonably requested by the Secretary),*
 20 *the Secretary shall have the burden of producing reasonable*
 21 *and probative information concerning such deficiency in*
 22 *addition to such information return.”*

23 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 24 *section (a) shall take effect on the date of the enactment*
 25 *of this Act.*

1 ***TITLE VII—AWARDING OF COSTS***
 2 ***AND CERTAIN FEES***

3 ***SEC. 701. UNITED STATES MUST ESTABLISH THAT ITS POSI-***
 4 ***TION IN PROCEEDING WAS SUBSTANTIALLY***
 5 ***JUSTIFIED.***

6 (a) *GENERAL RULE.*—Subparagraph (A) of section
 7 7430(c)(4) (defining prevailing party) is amended by strik-
 8 ing clause (i) and by redesignating clauses (ii) and (iii)
 9 as clauses (i) and (ii), respectively.

10 (b) *BURDEN OF PROOF ON UNITED STATES.*—Para-
 11 graph (4) of section 7430(c) is amended by redesignating
 12 subparagraph (B) as subparagraph (C) and by inserting
 13 after subparagraph (A) the following new subparagraph:

14 “(B) *EXCEPTION IF UNITED STATES ESTAB-*
 15 *LISHES THAT ITS POSITION WAS SUBSTANTIALLY*
 16 *JUSTIFIED.*—

17 “(i) *GENERAL RULE.*—A party shall
 18 not be treated as the prevailing party in a
 19 proceeding to which subsection (a) applies if
 20 the United States establishes that the posi-
 21 tion of the United States in the proceeding
 22 was substantially justified.

23 “(ii) *PRESUMPTION OF NO JUSTIFICA-*
 24 *TION IF INTERNAL REVENUE SERVICE DID*
 25 *NOT FOLLOW CERTAIN PUBLISHED GUID-*

ANCE.—For purposes of clause (i), the position of the United States shall be presumed not to be substantially justified if the Internal Revenue Service did not follow its applicable published guidance in the administrative proceeding. Such presumption may be rebutted.

“(iii) *APPLICABLE PUBLISHED GUIDANCE*.—For purposes of clause (ii), the term ‘applicable published guidance’ means—

“(I) regulations, revenue rulings, revenue procedures, information releases, notices, and announcements, and

“(II) any of the following which are issued to the taxpayer: private letter rulings, technical advice memoranda, and determination letters.”

(c) *CONFORMING AMENDMENTS*.—

(1) Subparagraph (B) of section 7430(c)(2) is amended by striking “paragraph (4)(B)” and inserting “paragraph (4)(C)”.

(2) Subparagraph (C) of section 7430(c)(4), as redesignated by subsection (b), is amended by striking “subparagraph (A)” and inserting “this paragraph”.

1 (3) Sections 6404(g) and 6656(c)(1), as amended
 2 by this Act, are each amended by striking “section
 3 7430(c)(4)(A)(iii)” and inserting “section
 4 7430(c)(4)(A)(ii”).

5 (d) *EFFECTIVE DATE.*—The amendments made by this
 6 section shall apply in the case of proceedings commenced
 7 after the date of the enactment of this Act.

8 **SEC. 702. INCREASED LIMIT ON ATTORNEY FEES.**

9 (a) *IN GENERAL.*—Paragraph (1) of section 7430(c)
 10 (defining reasonable litigation costs) is amended—

11 (1) by striking “\$75” in clause (iii) of subpara-
 12 graph (B) and inserting “\$110”,

13 (2) by striking “an increase in the cost of living
 14 or” in clause (iii) of subparagraph (B), and

15 (3) by adding after clause (iii) the following:

16 *“In the case of any calendar year beginning after*
 17 *1996, the dollar amount referred to in clause (iii)*
 18 *shall be increased by an amount equal to such dollar*
 19 *amount multiplied by the cost-of-living adjustment*
 20 *determined under section 1(f)(3) for such calendar*
 21 *year, by substituting ‘calendar year 1995’ for ‘cal-*
 22 *endar year 1992’ in subparagraph (B) thereof. If any*
 23 *dollar amount after being increased under the preced-*
 24 *ing sentence is not a multiple of \$10, such dollar*

6 **SEC. 703. FAILURE TO AGREE TO EXTENSION NOT TAKEN**
7 **INTO ACCOUNT.**

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

18 **SEC. 704. AWARD OF LITIGATION COSTS PERMITTED IN DE-**
19 **CLARATORY JUDGMENT PROCEEDINGS.**

20 (a) IN GENERAL.—Subsection (b) of section 7430 is
21 amended by striking paragraph (3) and by redesignating
22 paragraph (4) as paragraph (3).

(b) *EFFECTIVE DATE.*—The amendment made by this section shall apply in the case of proceedings commenced after the date of the enactment of this Act.

1 ***TITLE VIII—MODIFICATION TO***
 2 ***RECOVERY OF CIVIL DAM-***
 3 ***AGES FOR UNAUTHORIZED***
 4 ***COLLECTION ACTIONS***

5 ***SEC. 801. INCREASE IN LIMIT ON RECOVERY OF CIVIL DAM-***
 6 ***AGES FOR UNAUTHORIZED COLLECTION AC-***
 7 ***TIONS.***

8 (a) *GENERAL RULE.*—Subsection (b) of section 7433
 9 (relating to damages) is amended by striking “\$100,000”
 10 and inserting “\$1,000,000”.

11 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 12 section (a) shall apply to actions by officers or employees
 13 of the Internal Revenue Service after the date of the enact-
 14 ment of this Act.

15 ***SEC. 802. COURT DISCRETION TO REDUCE AWARD FOR LITI-***
 16 ***GATION COSTS FOR FAILURE TO EXHAUST***
 17 ***ADMINISTRATIVE REMEDIES.***

18 (a) *GENERAL RULE.*—Paragraph (1) of section
 19 7433(d) (relating to civil damages for certain unauthorized
 20 collection actions) is amended to read as follows:

21 “(1) *AWARD FOR DAMAGES MAY BE REDUCED IF*
 22 *ADMINISTRATIVE REMEDIES NOT EXHAUSTED.*—The
 23 amount of damages awarded under subsection (b)
 24 may be reduced if the court determines that the plain-
 25 tiff has not exhausted the administrative remedies

1 *available to such plaintiff within the Internal Reve-*
 2 *nue Service.”*

3 ***(b) EFFECTIVE DATE.***—*The amendment made by this*
 4 *section shall apply in the case of proceedings commenced*
 5 *after the date of the enactment of this Act.*

6 ***TITLE IX—MODIFICATIONS TO***
 7 ***PENALTY FOR FAILURE TO***
 8 ***COLLECT AND PAY OVER TAX***

9 ***SEC. 901. PRELIMINARY NOTICE REQUIREMENT.***

10 ***(a) IN GENERAL.***—*Section 6672 (relating to failure to*
 11 *collect and pay over tax, or attempt to evade or defeat tax)*
 12 *is amended by redesignating subsection (b) as subsection*
 13 *(c) and by inserting after subsection (a) the following new*
 14 *subsection:*

15 ***“(b) PRELIMINARY NOTICE REQUIREMENT.—***

16 ***“(1) IN GENERAL.***—*No penalty shall be imposed*
 17 *under subsection (a) unless the Secretary notifies the*
 18 *taxpayer in writing by mail to an address as deter-*
 19 *mined under section 6212(b) that the taxpayer shall*
 20 *be subject to an assessment of such penalty.*

21 ***“(2) TIMING OF NOTICE.***—*The mailing of the no-*
 22 *tice described in paragraph (1) shall precede any no-*
 23 *tice and demand of any penalty under subsection (a)*
 24 *by at least 60 days.*

1 “(3) *STATUTE OF LIMITATIONS.*—If a notice de-
 2 scribed in paragraph (1) with respect to any penalty
 3 is mailed before the expiration of the period provided
 4 by section 6501 for the assessment of such penalty
 5 (determined without regard to this paragraph), the
 6 period provided by such section for the assessment of
 7 such penalty shall not expire before the later of—

8 “(A) the date 90 days after the date on
 9 which such notice was mailed, or

10 “(B) if there is a timely protest of the pro-
 11 posed assessment, the date 30 days after the Sec-
 12 retary makes a final administrative determina-
 13 tion with respect to such protest.

14 “(4) *EXCEPTION FOR JEOPARDY.*—This sub-
 15 section shall not apply if the Secretary finds that the
 16 collection of the penalty is in jeopardy.”

17 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 18 section (a) shall apply to proposed assessments made after
 19 June 30, 1996.

20 **SEC. 902. DISCLOSURE OF CERTAIN INFORMATION WHERE**
 21 **MORE THAN 1 PERSON LIABLE FOR PENALTY**
 22 **FOR FAILURE TO COLLECT AND PAY OVER**
 23 **TAX.**

24 (a) *IN GENERAL.*—Subsection (e) of section 6103 (re-
 25 lating to disclosure to persons having material interest), as

1 amended by section 403, is amended by adding at the end
 2 the following new paragraph:

3 “(9) *DISCLOSURE OF CERTAIN INFORMATION*
 4 *WHERE MORE THAN 1 PERSON SUBJECT TO PENALTY*
 5 *UNDER SECTION 6672.*—If the Secretary determines
 6 that a person is liable for a penalty under section
 7 6672(a) with respect to any failure, upon request in
 8 writing of such person, the Secretary shall disclose in
 9 writing to such person—

10 “(A) the name of any other person whom
 11 the Secretary has determined to be liable for such
 12 penalty with respect to such failure, and

13 “(B) whether the Secretary has attempted to
 14 collect such penalty from such other person, the
 15 general nature of such collection activities, and
 16 the amount collected.”

17 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 18 section (a) shall take effect on the date of the enactment
 19 of this Act.

20 ***SEC. 903. RIGHT OF CONTRIBUTION WHERE MORE THAN 1***
 21 ***PERSON LIABLE FOR PENALTY FOR FAILURE***
 22 ***TO COLLECT AND PAY OVER TAX.***

23 (a) *IN GENERAL.*—Section 6672 (relating to failure to
 24 collect and pay over tax, or attempt to evade or defeat tax)

1 *is amended by adding at the end the following new sub-*
 2 *section:*

3 “(d) *RIGHT OF CONTRIBUTION WHERE MORE THAN*
 4 *1 PERSON LIABLE FOR PENALTY.*—If more than 1 person
 5 *is liable for the penalty under subsection (a) with respect*
 6 *to any tax, each person who paid such penalty shall be enti-*
 7 *tled to recover from other persons who are liable for such*
 8 *penalty an amount equal to the excess of the amount paid*
 9 *by such person over such person’s proportionate share of*
 10 *the penalty. Any claim for such a recovery may be made*
 11 *only in a proceeding which is separate from, and is not*
 12 *joined or consolidated with—*

13 “(1) *an action for collection of such penalty*
 14 *brought by the United States, or*

15 “(2) *a proceeding in which the United States*
 16 *files a counterclaim or third-party complaint for the*
 17 *collection of such penalty.”*

18 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 19 *section (a) shall apply to penalties assessed after the date*
 20 *of the enactment of this Act.*

1 **SEC. 904. VOLUNTEER BOARD MEMBERS OF TAX-EXEMPT**
 2 **ORGANIZATIONS EXEMPT FROM PENALTY**
 3 **FOR FAILURE TO COLLECT AND PAY OVER**
 4 **TAX.**

5 (a) *IN GENERAL.*—Section 6672 is amended by adding
 6 *at the end the following new subsection:*

7 “(e) *EXCEPTION FOR VOLUNTARY BOARD MEMBERS*
 8 *OF TAX-EXEMPT ORGANIZATIONS.*—No penalty shall be im-
 9 *posed by subsection (a) on any unpaid, volunteer member*
 10 *of any board of trustees or directors of an organization ex-*
 11 *empt from tax under subtitle A if such member—*

12 “(1) *is solely serving in an honorary capacity,*

13 “(2) *does not participate in the day-to-day or fi-*
 14 *nancial operations of the organization, and*

15 “(3) *does not have actual knowledge of the fail-*
 16 *ure on which such penalty is imposed.*

17 *The preceding sentence shall not apply if it results in no*
 18 *person being liable for the penalty imposed by subsection*
 19 *(a).”*

20 (b) *PUBLIC INFORMATION REQUIREMENTS.*—

21 (1) *IN GENERAL.*—*The Secretary of the Treasury*
 22 *or the Secretary’s delegate (hereafter in this subsection*
 23 *referred to as the “Secretary”) shall take such actions*
 24 *as may be appropriate to ensure that employees are*
 25 *aware of their responsibilities under the Federal tax*
 26 *depository system, the circumstances under which em-*

1 *employees may be liable for the penalty imposed by sec-*
 2 *tion 6672 of the Internal Revenue Code of 1986, and*
 3 *the responsibility to promptly report to the Internal*
 4 *Revenue Service any failure referred to in subsection*
 5 *(a) of such section 6672. Such actions shall include—*

6 *(A) printing of a warning on deposit cou-*
 7 *pon booklets and the appropriate tax returns*
 8 *that certain employees may be liable for the pen-*
 9 *alty imposed by such section 6672, and*

10 *(B) the development of a special informa-*
 11 *tion packet.*

12 *(2) DEVELOPMENT OF EXPLANATORY MATE-*
 13 *RIALS.—The Secretary shall develop materials ex-*
 14 *plaining the circumstances under which board mem-*
 15 *bers of tax-exempt organizations (including voluntary*
 16 *and honorary members) may be subject to penalty*
 17 *under section 6672 of such Code. Such materials shall*
 18 *be made available to tax-exempt organizations.*

19 *(3) IRS INSTRUCTIONS.—The Secretary shall*
 20 *clarify the instructions to Internal Revenue Service*
 21 *employees on the application of the penalty under sec-*
 22 *tion 6672 of such Code with regard to voluntary*
 23 *members of boards of trustees or directors of tax-ex-*
 24 *empt organizations.*

1 ***TITLE X—MODIFICATIONS OF***
 2 ***RULES RELATING TO SUM-***
 3 ***MONSES***

4 ***SEC. 1001. ENROLLED AGENTS INCLUDED AS THIRD-PARTY***
 5 ***RECORDKEEPERS.***

6 *(a) IN GENERAL.—Paragraph (3) of section 7609(a)*
 7 *(relating to third-party recordkeeper defined) is amended*
 8 *by striking “and” at the end of subparagraph (G), by strik-*
 9 *ing the period at the end of subparagraph (H) and inserting*
 10 *“; and”, and by adding at the end the following the sub-*
 11 *paragraph:*

12 *“(I) any enrolled agent.”*

13 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 14 *section (a) shall apply to summonses issued after the date*
 15 *of the enactment of this Act.*

16 ***SEC. 1002. SAFEGUARDS RELATING TO DESIGNATED SUM-***
 17 ***MONSES.***

18 *(a) STANDARD OF REVIEW.—Subparagraph (A) of sec-*
 19 *tion 6503(k)(2) (defining designated summons) is amended*
 20 *by redesignating clauses (i) and (ii) as clauses (ii) and*
 21 *(iii), respectively, and by inserting before clause (ii) (as so*
 22 *redesignated) the following new clause:*

23 *“(i) the issuance of such summons is*
 24 *preceded by a review of such issuance by the*
 25 *regional counsel of the Office of Chief Coun-*

1 *sel for the region in which the examination*
 2 *of the corporation is being conducted,”.*

3 (b) *LIMITATION ON PERSONS TO WHOM DESIGNATED*
 4 *SUMMONS MAY BE ISSUED.*—Paragraph (1) of section
 5 6503(k) is amended by striking “with respect to any return
 6 of tax by a corporation” and inserting “to a corporation
 7 (or to any other person to whom the corporation has trans-
 8 ferred records) with respect to any return of tax by such
 9 corporation for a taxable year (or other period) for which
 10 such corporation is being examined under the coordinated
 11 examination program (or any successor program) of the In-
 12 ternal Revenue Service”.

13 (c) *CLERICAL AMENDMENT.*—Section 6503 is amended
 14 by redesignating subsections (k) and (l) (as amended by this
 15 section) as subsections (j) and (k), respectively.

16 (d) *EFFECTIVE DATE.*—The amendments made by this
 17 section shall apply to summonses issued after the date of
 18 the enactment of this Act.

19 **SEC. 1003. ANNUAL REPORT TO CONGRESS CONCERNING**
 20 **DESIGNATED SUMMONSES.**

21 *Not later than December 31 of each calendar year after*
 22 *1995, the Secretary of the Treasury or his delegate shall*
 23 *report to the Committee on Ways and Means of the House*
 24 *of Representatives and the Committee on Finance of the*
 25 *Senate on the number of designated summonses (as defined*

1 *in section 6503(j) of the Internal Revenue Code of 1986)*
 2 *which were issued during the preceding 12 months.*

3 ***TITLE XI—RELIEF FROM RETRO-***
 4 ***ACTIVE APPLICATION OF***
 5 ***TREASURY DEPARTMENT***
 6 ***REGULATIONS***

7 ***SEC. 1101. RELIEF FROM RETROACTIVE APPLICATION OF***
 8 ***TREASURY DEPARTMENT REGULATIONS.***

9 *(a) IN GENERAL.—Subsection (b) of section 7805 (re-*
 10 *lating to rules and regulations) is amended to read as fol-*
 11 *lows:*

12 *“(b) RETROACTIVITY OF REGULATIONS.—*

13 *“(1) IN GENERAL.—Except as otherwise provided*
 14 *in this subsection, no temporary, proposed, or final*
 15 *regulation relating to the internal revenue laws shall*
 16 *apply to any taxable period ending before the earliest*
 17 *of the following dates:*

18 *“(A) The date on which such regulation is*
 19 *filed with the Federal Register.*

20 *“(B) In the case of any final regulation, the*
 21 *date on which any proposed or temporary regu-*
 22 *lation to which such final regulation relates was*
 23 *filed with the Federal Register.*

24 *“(C) The date on which any notice substan-*
 25 *tially describing the expected contents of any*

1 *temporary, proposed, or final regulation is is-*
2 *sued to the public.*

3 “(2) *EXCEPTION FOR PROMPTLY ISSUED REGU-*
4 *LATIONS.—Paragraph (1) shall not apply to regula-*
5 *tions filed or issued within 18 months of the date of*
6 *the enactment of the statutory provision to which the*
7 *regulation relates.*

8 “(3) *PREVENTION OF ABUSE.—The Secretary*
9 *may provide that any regulation may take effect or*
10 *apply retroactively to prevent abuse.*

11 “(4) *CORRECTION OF PROCEDURAL DEFECTS.—*
12 *The Secretary may provide that any regulation may*
13 *apply retroactively to correct a procedural defect in*
14 *the issuance of any prior regulation.*

15 “(5) *INTERNAL REGULATIONS.—The limitation*
16 *of paragraph (1) shall not apply to any regulation*
17 *relating to internal Treasury Department policies,*
18 *practices, or procedures.*

19 “(6) *CONGRESSIONAL AUTHORIZATION.—The*
20 *limitation of paragraph (1) may be superseded by a*
21 *legislative grant from Congress authorizing the Sec-*
22 *retary to prescribe the effective date with respect to*
23 *any regulation.*

24 “(7) *ELECTION TO APPLY RETROACTIVELY.—The*
25 *Secretary may provide for any taxpayer to elect to*

1 *apply any regulation before the dates specified in*
 2 *paragraph (1).*

3 *“(8) APPLICATION TO RULINGS.—The Secretary*
 4 *may prescribe the extent, if any, to which any ruling*
 5 *(including any judicial decision or any administra-*
 6 *tive determination other than by regulation) relating*
 7 *to the internal revenue laws shall be applied without*
 8 *retroactive effect.”*

9 *(b) EFFECTIVE DATE.—The amendment made by sub-*
 10 *section (a) shall apply with respect to regulations which*
 11 *relate to statutory provisions enacted on or after the date*
 12 *of the enactment of this Act.*

13 ***TITLE XII—MISCELLANEOUS***
 14 ***PROVISIONS***

15 ***SEC. 1201. PHONE NUMBER OF PERSON PROVIDING PAYEE***
 16 ***STATEMENTS REQUIRED TO BE SHOWN ON***
 17 ***SUCH STATEMENT.***

18 *(a) GENERAL RULE.—The following provisions are*
 19 *each amended by striking “name and address” and insert-*
 20 *ing “name, address, and phone number of the information*
 21 *contact”:*

22 *(1) Section 6041(d)(1).*

23 *(2) Section 6041A(e)(1).*

24 *(3) Section 6042(c)(1).*

25 *(4) Section 6044(e)(1).*

1 (5) *Section 6045(b)(1).*

2 (6) *Section 6049(c)(1)(A).*

3 (7) *Section 6050B(b)(1).*

4 (8) *Section 6050H(d)(1).*

5 (9) *Section 6050I(e)(1).*

6 (10) *Section 6050J(e).*

7 (11) *Section 6050K(b)(1).*

8 (12) *Section 6050N(b)(1).*

9 (b) *EFFECTIVE DATE.*—*The amendments made by sub-*
 10 *section (a) shall apply to statements required to be fur-*
 11 *nished after December 31, 1996 (determined without regard*
 12 *to any extension).*

13 ***SEC. 1202. REQUIRED NOTICE OF CERTAIN PAYMENTS.***

14 *If any payment is received by the Secretary of the*
 15 *Treasury or his delegate from any taxpayer and the Sec-*
 16 *retary cannot associate such payment with such taxpayer,*
 17 *the Secretary shall make reasonable efforts to notify the tax-*
 18 *payer of such inability within 60 days after the receipt of*
 19 *such payment.*

20 ***SEC. 1203. UNAUTHORIZED ENTICEMENT OF INFORMATION***
 21 ***DISCLOSURE.***

22 (a) *IN GENERAL.*—*Subchapter B of chapter 76 (relat-*
 23 *ing to proceedings by taxpayers and third parties), as*
 24 *amended by section 601(a), is amended by redesignating*

1 *section 7435 as section 7436 and by inserting after section*
2 *7434 the following new section:*

3 ***“SEC. 7435. CIVIL DAMAGES FOR UNAUTHORIZED ENTICE-***
4 ***MENT OF INFORMATION DISCLOSURE.***

5 *“(a) IN GENERAL.—If any officer or employee of the*
6 *United States intentionally compromises the determination*
7 *or collection of any tax due from an attorney, certified pub-*
8 *lic accountant, or enrolled agent representing a taxpayer*
9 *in exchange for information conveyed by the taxpayer to*
10 *the attorney, certified public accountant, or enrolled agent*
11 *for purposes of obtaining advice concerning the taxpayer’s*
12 *tax liability, such taxpayer may bring a civil action for*
13 *damages against the United States in a district court of*
14 *the United States. Such civil action shall be the exclusive*
15 *remedy for recovering damages resulting from such actions.*

16 *“(b) DAMAGES.—In any action brought under sub-*
17 *section (a), upon a finding of liability on the part of the*
18 *defendant, the defendant shall be liable to the plaintiff in*
19 *an amount equal to the lesser of \$500,000 or the sum of—*

20 *“(1) actual, direct economic damages sustained*
21 *by the plaintiff as a proximate result of the informa-*
22 *tion disclosure, and*

23 *“(2) the costs of the action.*

1 *Damages shall not include the taxpayer's liability for any*
2 *civil or criminal penalties, or other losses attributable to*
3 *incarceration or the imposition of other criminal sanctions.*

4 “(c) *PAYMENT AUTHORITY.*—*Claims pursuant to this*
5 *section shall be payable out of funds appropriated under*
6 *section 1304 of title 31, United States Code.*

7 “(d) *PERIOD FOR BRINGING ACTION.*—*Notwithstand-*
8 *ing any other provision of law, an action to enforce liability*
9 *created under this section may be brought without regard*
10 *to the amount in controversy and may be brought only*
11 *within 2 years after the date the actions creating such li-*
12 *ability would have been discovered by exercise of reasonable*
13 *care.*

14 “(e) *MANDATORY STAY.*—*Upon a certification by the*
15 *Commissioner or the Commissioner's delegate that there is*
16 *an ongoing investigation or prosecution of the taxpayer, the*
17 *district court before which an action under this section is*
18 *pending shall stay all proceedings with respect to such ac-*
19 *tion pending the conclusion of the investigation or prosecu-*
20 *tion.*

21 “(f) *CRIME-FRAUD EXCEPTION.*—*Subsection (a) shall*
22 *not apply to information conveyed to an attorney, certified*
23 *public accountant, or enrolled agent for the purpose of per-*
24 *petrating a fraud or crime.”*

1 (b) *CLERICAL AMENDMENT.*—The table of sections for
 2 subchapter B of chapter 76, as amended by section 601(b),
 3 is amended by striking the item relating to section 7435
 4 and by adding at the end the following new items:

“Sec. 7435. Civil damages for unauthorized enticement of informa-
 tion disclosure.

“Sec. 7436. Cross references.”

5 (c) *EFFECTIVE DATE.*—The amendments made by this
 6 section shall apply to actions after the date of the enactment
 7 of this Act.

8 **SEC. 1204. ANNUAL REMINDERS TO TAXPAYERS WITH OUT-**
 9 **STANDING DELINQUENT ACCOUNTS.**

10 (a) *IN GENERAL.*—Chapter 77 (relating to miscellane-
 11 ous provisions) is amended by adding at the end the follow-
 12 ing new section:

13 **“SEC. 7524. ANNUAL NOTICE OF TAX DELINQUENCY.**

14 “Not less often than annually, the Secretary shall send
 15 a written notice to each taxpayer who has a tax delinquent
 16 account of the amount of the tax delinquency as of the date
 17 of the notice.”

18 (b) *CLERICAL AMENDMENT.*—The table of sections for
 19 chapter 77 is amended by adding at the end the following
 20 new item:

“Sec. 7524. Annual notice of tax delinquency.”

21 (c) *EFFECTIVE DATE.*—The amendments made by this
 22 section shall apply to calendar years after 1996.

1 **SEC. 1205. 5-YEAR EXTENSION OF AUTHORITY FOR UNDER-**
 2 **COVER OPERATIONS.**

3 (a) *IN GENERAL.*—Paragraph (3) of section 7601(c)
 4 of the Anti-Drug Abuse Act of 1988 is amended by striking
 5 all that follows “this Act” and inserting a period.

6 (b) *RESTORATION OF AUTHORITY FOR 5 YEARS.*—Sub-
 7 section (c) of section 7608 is amended by adding at the end
 8 the following new paragraph:

9 “(6) *APPLICATION OF SECTION.*—The provisions
 10 of this subsection—

11 “(A) shall apply after November 17, 1988,
 12 and before January 1, 1990, and

13 “(B) shall apply after the date of the enact-
 14 ment of this paragraph and before January 1,
 15 2001.

16 All amounts expended pursuant to this subsection
 17 during the period described in subparagraph (B) shall
 18 be recovered to the extent possible, and deposited in
 19 the Treasury of the United States as miscellaneous re-
 20 ceipts, before January 1, 2001.”

21 (c) *ENHANCED OVERSIGHT.*—

22 (1) *ADDITIONAL INFORMATION REQUIRED IN RE-*
 23 *PORTS TO CONGRESS.*—Subparagraph (B) of section
 24 7608(c)(4) is amended—

25 (A) by striking “preceding the period” in
 26 clause (ii),

1 (B) by striking “and” at the end of clause
2 (ii), and

3 (C) by striking clause (iii) and inserting
4 the following:

5 “(iii) the number, by programs, of un-
6 dercover investigative operations closed in
7 the 1-year period for which such report is
8 submitted, and

9 “(iv) the following information with
10 respect to each undercover investigative op-
11 eration pending as of the end of the 1-year
12 period for which such report is submitted or
13 closed during such 1-year period—

14 “(I) the date the operation began
15 and the date of the certification re-
16 ferred to in the last sentence of para-
17 graph (1),

18 “(II) the total expenditures under
19 the operation and the amount and use
20 of the proceeds from the operation,

21 “(III) a detailed description of the
22 operation including the potential viola-
23 tion being investigated and whether the
24 operation is being conducted under
25 grand jury auspices, and

1 “(IV) the results of the operation
2 including the results of criminal pro-
3 ceedings.”

4 (2) *AUDITS REQUIRED WITHOUT REGARD TO*
5 *AMOUNTS INVOLVED.*—Subparagraph (C) of section
6 7608(c)(5) is amended to read as follows:

7 “(C) *UNDERCOVER INVESTIGATIVE OPER-*
8 *ATION.*—The term ‘undercover investigative oper-
9 ation’ means any undercover investigative oper-
10 ation of the Service; except that, for purposes of
11 subparagraphs (A) and (C) of paragraph (4),
12 such term only includes an operation which is
13 exempt from section 3302 or 9102 of title 31,
14 United States Code.”

15 (3) *EFFECTIVE DATE.*—The amendments made
16 by this subsection shall take effect on the date of the
17 enactment of this Act.

18 **SEC. 1206. DISCLOSURE OF FORM 8300 INFORMATION ON**
19 **CASH TRANSACTIONS.**

20 (a) *IN GENERAL.*—Subsection (l) of section 6103 (re-
21 lating to disclosure of returns and return information for
22 purposes other than tax administration) is amended by
23 adding at the end the following new paragraph:

1 “(15) *DISCLOSURE OF RETURNS FILED UNDER*
 2 *SECTION 6050I.—The Secretary may, upon written re-*
 3 *quest, disclose to officers and employees of—*

4 “(A) *any Federal agency,*

5 “(B) *any agency of a State or local govern-*
 6 *ment, or*

7 “(C) *any agency of the government of a for-*
 8 *eign country,*

9 *information contained on returns filed under section*
 10 *6050I. Any such disclosure shall be made on the same*
 11 *basis, and subject to the same conditions, as apply to*
 12 *disclosures of information on reports filed under sec-*
 13 *tion 5313 of title 31, United States Code; except that*
 14 *no disclosure under this paragraph shall be made for*
 15 *purposes of the administration of any tax law.”*

16 (b) *CONFORMING AMENDMENTS.—*

17 (1) *Subsection (i) of section 6103 is amended by*
 18 *striking paragraph (8).*

19 (2) *Subparagraph (A) of section 6103(p)(3) is*
 20 *amended—*

21 (A) *by striking “(7)(A)(ii), or (8)” and in-*
 22 *serting “or (7)(A)(ii)”, and*

23 (B) *by striking “or (14)” and inserting*
 24 *“(14), or (15)”.*

1 (3) *The material preceding subparagraph (A) of*
 2 *section 6103(p)(4) is amended—*

3 (A) *by striking “(5), or (8)” and inserting*
 4 *“or (5)”*,

5 (B) *by striking “(i)(3)(B)(i), or (8)” and*
 6 *inserting “(i)(3)(B)(i),” and*

7 (C) *by striking “or (12)” and inserting*
 8 *“(12), or (15)”*.

9 (4) *Clause (ii) of section 6103(p)(4)(F) is*
 10 *amended—*

11 (A) *by striking “(5), or (8)” and inserting*
 12 *“or (5)”*, and

13 (B) *by striking “or (14)” and inserting*
 14 *“(14), or (15)”*.

15 (5) *Paragraph (2) of section 7213(a) is amended*
 16 *by striking “or (12)” and inserting “(12), or (15)”*.

17 (c) *EFFECTIVE DATE.—The amendments made by this*
 18 *section shall take effect on the date of the enactment of this*
 19 *Act.*

20 ***SEC. 1207. DISCLOSURE OF RETURNS AND RETURN INFOR-***
 21 ***MATION TO DESIGNEE OF TAXPAYER.***

22 *Subsection (c) of section 6103 (relating to disclosure*
 23 *of returns and return information to designee of taxpayer)*
 24 *is amended by striking “written request for or consent to*

1 *such disclosure” and inserting “request for or consent to*
2 *such disclosure”.*

3 ***SEC. 1208. STUDY OF NETTING OF INTEREST ON OVERPAY-***
4 ***MENTS AND LIABILITIES.***

5 *(a) IN GENERAL.—The Secretary of the Treasury or*
6 *his delegate shall—*

7 *(1) conduct a study of the manner in which the*
8 *Internal Revenue Service has implemented the netting*
9 *of interest on overpayments and underpayments and*
10 *of the policy and administrative implications of glob-*
11 *al netting, and*

12 *(2) before submitting the report of such study,*
13 *hold a public hearing to receive comments on the mat-*
14 *ters included in such study.*

15 *(b) REPORT.—The report of such study shall be sub-*
16 *mitted not later than 6 months after the date of the enact-*
17 *ment of this Act to the Committee on Ways and Means of*
18 *the House of Representatives and the Committee on Finance*
19 *of the Senate.*

20 ***SEC. 1209. EXPENSES OF DETECTION OF UNDERPAYMENTS***
21 ***AND FRAUD, ETC.***

22 *(a) IN GENERAL.—Section 7623 (relating to expenses*
23 *of deduction and punishment of frauds) is amended to read*
24 *as follows:*

1 **“SEC. 7623. EXPENSES OF DETECTION OF UNDERPAYMENTS**
 2 **AND FRAUD, ETC.**

3 *“The Secretary, under regulations prescribed by the*
 4 *Secretary, is authorized to pay such sums as he deems nec-*
 5 *essary for—*

6 *“(1) detecting underpayments of tax, and*

7 *“(2) detecting and bringing to trial and punish-*
 8 *ment persons guilty of violating the internal revenue*
 9 *laws or conniving at the same,*

10 *in cases where such expenses are not otherwise provided for*
 11 *by law. Any amount payable under the preceding sentence*
 12 *shall be paid from the proceeds of amounts (other than in-*
 13 *terest) collected by reason of the information provided, and*
 14 *any amount so collected shall be available for such pay-*
 15 *ments.”.*

16 **(b) CLERICAL AMENDMENT.**—*The table of sections for*
 17 *subchapter B of chapter 78 is amended by striking the item*
 18 *relating to section 7623 and inserting the following new*
 19 *item:*

*“Sec. 7623. Expenses of detection of underpayments and fraud,
etc.”.*

20 **(c) EFFECTIVE DATE.**—*The amendments made by this*
 21 *section shall take effect on the date which is 6 months after*
 22 *the date of the enactment of this Act.*

23 **(d) REPORT.**—*The Secretary of the Treasury or his*
 24 *delegate shall submit an annual report to the Committee*

1 *on Ways and Means of the House of Representatives and*
 2 *the Committee on Finance of the Senate on the payments*
 3 *under section 7623 of the Internal Revenue Code of 1986*
 4 *during the year and on the amounts collected for which such*
 5 *payments were made.*

6 ***SEC. 1210. USE OF PRIVATE DELIVERY SERVICES FOR TIME-***
 7 ***LY-MAILING-AS-TIMELY-FILING RULE.***

8 *Section 7502 (relating to timely mailing treated as*
 9 *timely filing and paying) is amended by adding at the end*
 10 *the following new subsection:*

11 *“(f) TREATMENT OF PRIVATE DELIVERY SERVICES.—*

12 *“(1) IN GENERAL.—Any reference in this section*
 13 *to the United States mail shall be treated as includ-*
 14 *ing a reference to any designated delivery service, and*
 15 *any reference in this section to a postmark by the*
 16 *United States Postal Service shall be treated as in-*
 17 *cluding a reference to any date recorded or marked as*
 18 *described in paragraph (2)(C) by any designated de-*
 19 *livery service.*

20 *“(2) DESIGNATED DELIVERY SERVICE.—For pur-*
 21 *poses of this subsection, the term ‘designated delivery*
 22 *service’ means any delivery service provided by a*
 23 *trade or business if such service is designated by the*
 24 *Secretary for purposes of this section. The Secretary*
 25 *may designate a delivery service under the preceding*

1 *sentence only if the Secretary determines that such*
 2 *service—*

3 “(A) *is available to the general public,*

4 “(B) *is at least as timely and reliable on a*
 5 *regular basis as the United States mail,*

6 “(C) *records electronically to its data base,*
 7 *kept in the regular course of its business, or*
 8 *marks on the cover in which any item referred*
 9 *to in this section is to be delivered, the date on*
 10 *which such item was given to such trade or busi-*
 11 *ness for delivery, and*

12 “(D) *meets such other criteria as the Sec-*
 13 *retary may prescribe.*

14 “(3) *EQUIVALENTS OF REGISTERED AND CER-*
 15 *TIFIED MAIL.—The Secretary may provide a rule*
 16 *similar to the rule of paragraph (1) with respect to*
 17 *any service provided by a designated delivery service*
 18 *which is substantially equivalent to United States*
 19 *registered or certified mail.”*

20 ***SEC. 1211. REPORTS ON MISCONDUCT OF IRS EMPLOYEES.***

21 *On or before June 1 of each calendar year after 1996,*
 22 *the Secretary of the Treasury shall submit to the Committee*
 23 *on Ways and Means of the House of Representatives and*
 24 *the Committee on Finance of the Senate a report on—*

1 (1) all categories of instances involving the mis-
 2 conduct of employees of the Internal Revenue Service
 3 during the preceding calendar year, and

4 (2) the disposition during the preceding calendar
 5 year of any such instances (without regard to the
 6 year of the misconduct).

7 ***TITLE XIII—REVENUE OFFSETS***
 8 ***Subtitle A—Application of Failure-***
 9 ***to-Pay Penalty to Substitute Re-***
 10 ***turns***

11 ***SEC. 1301. APPLICATION OF FAILURE-TO-PAY PENALTY TO***
 12 ***SUBSTITUTE RETURNS.***

13 (a) *GENERAL RULE.*—Section 6651 (relating to failure
 14 to file tax return or to pay tax) is amended by adding at
 15 the end the following new subsection:

16 “(g) *TREATMENT OF RETURNS PREPARED BY SEC-*
 17 *RETARY UNDER SECTION 6020(b).*—In the case of any re-
 18 turn made by the Secretary under section 6020(b)—

19 “(1) such return shall be disregarded for pur-
 20 poses of determining the amount of the addition
 21 under paragraph (1) of subsection (a), but

22 “(2) such return shall be treated as the return
 23 filed by the taxpayer for purposes of determining the
 24 amount of the addition under paragraphs (2) and (3)
 25 of subsection (a).”.

1 (b) *EFFECTIVE DATE.*—The amendment made by sub-
 2 section (a) shall apply in the case of any return the due
 3 date for which (determined without regard to extensions)
 4 is after the date of the enactment of this Act.

5 ***Subtitle B—Excise Taxes on***
 6 ***Amounts of Private Excess Benefits***

7 ***SEC. 1311. EXCISE TAXES FOR FAILURE BY CERTAIN CHARITABLE ORGANIZATIONS TO MEET CERTAIN QUALIFICATION REQUIREMENTS.***

10 (a) *IN GENERAL.*—Chapter 42 (relating to private
 11 foundations and certain other tax-exempt organizations) is
 12 amended by redesignating subchapter D as subchapter E
 13 and by inserting after subchapter C the following new sub-
 14 chapter:

15 ***“Subchapter D—Failure by Certain Charitable Organizations To Meet Certain Qualification Requirements***

“Sec. 4958. Taxes on excess benefit transactions.

18 ***“SEC. 4958. TAXES ON EXCESS BENEFIT TRANSACTIONS.***

19 “(a) *INITIAL TAXES.*—

20 “(1) *ON THE DISQUALIFIED PERSON.*—There is
 21 hereby imposed on each excess benefit transaction a
 22 tax equal to 25 percent of the excess benefit. The tax
 23 imposed by this paragraph shall be paid by any dis-

1 *qualified person referred to in subsection (f)(1) with*
 2 *respect to such transaction.*

3 “(2) *ON THE MANAGEMENT.*—*In any case in*
 4 *which a tax is imposed by paragraph (1), there is*
 5 *hereby imposed on the participation of any organiza-*
 6 *tion manager in the excess benefit transaction, know-*
 7 *ing that it is such a transaction, a tax equal to 10*
 8 *percent of the excess benefit, unless such participation*
 9 *is not willful and is due to reasonable cause. The tax*
 10 *imposed by this paragraph shall be paid by any orga-*
 11 *nization manager who participated in the excess ben-*
 12 *efit transaction.*

13 “(b) *ADDITIONAL TAX ON THE DISQUALIFIED PER-*
 14 *SON.*—*In any case in which an initial tax is imposed by*
 15 *subsection (a)(1) on an excess benefit transaction and the*
 16 *excess benefit involved in such transaction is not corrected*
 17 *within the taxable period, there is hereby imposed a tax*
 18 *equal to 200 percent of the excess benefit involved. The tax*
 19 *imposed by this subsection shall be paid by any disqualified*
 20 *person referred to in subsection (f)(1) with respect to such*
 21 *transaction.*

22 “(c) *EXCESS BENEFIT TRANSACTION; EXCESS BENE-*
 23 *FIT.*—*For purposes of this section—*

24 “(1) *EXCESS BENEFIT TRANSACTION.*—

1 “(A) *IN GENERAL.*—The term ‘excess benefit
2 transaction’ means any transaction in which an
3 economic benefit is provided by an applicable
4 tax-exempt organization directly or indirectly to
5 or for the use of any disqualified person if the
6 value of the economic benefit provided exceeds the
7 value of the consideration (including the per-
8 formance of services) received for providing such
9 benefit. For purposes of the preceding sentence,
10 an economic benefit shall not be treated as con-
11 sideration for the performance of services unless
12 such organization clearly indicated its intent to
13 so treat such benefit.

14 “(B) *EXCESS BENEFIT.*—The term ‘excess
15 benefit’ means the excess referred to in subpara-
16 graph (A).

17 “(2) *AUTHORITY TO INCLUDE CERTAIN OTHER*
18 *PRIVATE INUREMENT.*—To the extent provided in reg-
19 ulations prescribed by the Secretary, the term ‘excess
20 benefit transaction’ includes any transaction in which
21 the amount of any economic benefit provided to or for
22 the use of a disqualified person is determined in
23 whole or in part by the revenues of 1 or more activi-
24 ties of the organization but only if such transaction
25 results in inurement not permitted under paragraph

1 (3) or (4) of section 501(c), as the case may be. In
 2 the case of any such transaction, the excess benefit
 3 shall be the amount of the inurement not so per-
 4 mitted.

5 “(d) *SPECIAL RULES.*—For purposes of this section—

6 “(1) *JOINT AND SEVERAL LIABILITY.*—If more
 7 than 1 person is liable for any tax imposed by sub-
 8 section (a) or subsection (b), all such persons shall be
 9 jointly and severally liable for such tax.

10 “(2) *LIMIT FOR MANAGEMENT.*—With respect to
 11 any 1 excess benefit transaction, the maximum
 12 amount of the tax imposed by subsection (a)(2) shall
 13 not exceed \$10,000.

14 “(e) *APPLICABLE TAX-EXEMPT ORGANIZATION.*—For
 15 purposes of this subchapter, the term ‘applicable tax-exempt
 16 organization’ means—

17 “(1) any organization which (without regard to
 18 any excess benefit) would be described in paragraph
 19 (3) or (4) of section 501(c) and exempt from tax
 20 under section 501(a), and

21 “(2) any organization which was described in
 22 paragraph (1) at any time during the 5-year period
 23 ending on the date of the transaction.

24 Such term shall not include a private foundation (as de-
 25 fined in section 509(a)).

1 “(f) *OTHER DEFINITIONS.*—*For purposes of this sec-*
2 *tion—*

3 “(1) *DISQUALIFIED PERSON.*—*The term ‘dis-*
4 *qualified person’ means, with respect to any trans-*
5 *action—*

6 “(A) *any person who was, at any time dur-*
7 *ing the 5-year period ending on the date of such*
8 *transaction, in a position to exercise substantial*
9 *influence over the affairs of the organization,*

10 “(B) *a member of the family of an individ-*
11 *ual described in subparagraph (A), and*

12 “(C) *a 35-percent controlled entity.*

13 “(2) *ORGANIZATION MANAGER.*—*The term ‘orga-*
14 *nization manager’ means, with respect to any appli-*
15 *cable tax-exempt organization, any officer, director,*
16 *or trustee of such organization (or any individual*
17 *having powers or responsibilities similar to those of*
18 *officers, directors, or trustees of the organization).*

19 “(3) *35-PERCENT CONTROLLED ENTITY.*—

20 “(A) *IN GENERAL.*—*The term ‘35-percent*
21 *controlled entity’ means—*

22 “(i) *a corporation in which persons de-*
23 *scribed in subparagraph (A) or (B) of para-*
24 *graph (1) own more than 35 percent of the*
25 *total combined voting power,*

1 “(ii) a partnership in which such per-
 2 sons own more than 35 percent of the prof-
 3 its interest, and

4 “(iii) a trust or estate in which such
 5 persons own more than 35 percent of the
 6 beneficial interest.

7 “(B) *CONSTRUCTIVE OWNERSHIP RULES.*—
 8 *Rules similar to the rules of paragraphs (3) and*
 9 *(4) of section 4946(a) shall apply for purposes of*
 10 *this paragraph.*

11 “(4) *FAMILY MEMBERS.*—*The members of an in-*
 12 *dividual’s family shall be determined under section*
 13 *4946(d); except that such members also shall include*
 14 *the brothers and sisters (whether by the whole or half*
 15 *blood) of the individual and their spouses.*

16 “(5) *TAXABLE PERIOD.*—*The term ‘taxable pe-*
 17 *riod’ means, with respect to any excess benefit trans-*
 18 *action, the period beginning with the date on which*
 19 *the transaction occurs and ending on the earliest of—*

20 “(A) *the date of mailing a notice of defi-*
 21 *ciency under section 6212 with respect to the tax*
 22 *imposed by subsection (a)(1), or*

23 “(B) *the date on which the tax imposed by*
 24 *subsection (a)(1) is assessed.*

1 “(6) *CORRECTION.*—*The terms ‘correction’ and*
 2 *‘correct’ mean, with respect to any excess benefit*
 3 *transaction, undoing the excess benefit to the extent*
 4 *possible, and taking any additional measures nec-*
 5 *essary to place the organization in a financial posi-*
 6 *tion not worse than that in which it would be if the*
 7 *disqualified person were dealing under the highest fi-*
 8 *duciary standards.’”*

9 ***(b) APPLICATION OF PRIVATE INUREMENT RULE TO***
 10 ***TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SECTION***
 11 ***501(c)(4).***—

12 ***(1) IN GENERAL.***—*Paragraph (4) of section*
 13 *501(c) is amended by inserting “(A)” after “(4)” and*
 14 *by adding at the end the following:*

15 ***“(B) Subparagraph (A) shall not apply to an***
 16 *entity unless no part of the net earnings of such en-*
 17 *tity inures to the benefit of any private shareholder*
 18 *or individual.”*

19 ***(2) SPECIAL RULE FOR CERTAIN COOPERA-***
 20 ***TIVES.***—*In the case of an organization operating on*
 21 *a cooperative basis which, before the date of the enact-*
 22 *ment of this Act, was determined by the Secretary of*
 23 *the Treasury or his delegate, to be described in section*
 24 *501(c)(4) of the Internal Revenue Code of 1986 and*
 25 *exempt from tax under section 501(a) of such Code,*

1 *the allocation or return of net margins or capital to*
 2 *the members of such organization in accordance with*
 3 *its incorporating statute and bylaws shall not be*
 4 *treated for purposes of such Code as the inurement*
 5 *of the net earnings of such organization to the benefit*
 6 *of any private shareholder or individual. The preced-*
 7 *ing sentence shall apply only if such statute and by-*
 8 *laws are substantially as such statute and bylaws*
 9 *were in existence on the date of the enactment of this*
 10 *Act.*

11 (c) *TECHNICAL AND CONFORMING AMENDMENTS.—*

12 (1) *Subsection (e) of section 4955 is amended—*

13 (A) *by striking “SECTION 4945” in the*
 14 *heading and inserting “SECTIONS 4945 AND*
 15 *4958”, and*

16 (B) *by inserting before the period “or an ex-*
 17 *cess benefit for purposes of section 4958”.*

18 (2) *Subsections (a), (b), and (c) of section 4963*
 19 *are each amended by inserting “4958,” after “4955,”.*

20 (3) *Subsection (e) of section 6213 is amended by*
 21 *inserting “4958 (relating to private excess benefit),”*
 22 *before “4971”.*

23 (4) *Paragraphs (2) and (3) of section 7422(g)*
 24 *are each amended by inserting “4958,” after “4955,”.*

1 (5) *Subsection (b) of section 7454 is amended by*
 2 *inserting “or whether an organization manager (as*
 3 *defined in section 4958(f)(2)) has ‘knowingly’ partici-*
 4 *pated in an excess benefit transaction (as defined in*
 5 *section 4958(c)),” after “section 4912(b),”.*

6 (6) *The table of subchapters for chapter 42 is*
 7 *amended by striking the last item and inserting the*
 8 *following:*

 “SUBCHAPTER D. Failure by certain charitable organizations to
 meet certain qualification requirements.

 “SUBCHAPTER E. Abatement of first and second tier taxes in cer-
 tain cases.”

9 (d) *EFFECTIVE DATES.—*

10 (1) *IN GENERAL.—The amendments made by*
 11 *this section (other than subsection (b)) shall apply to*
 12 *excess benefit transactions occurring on or after Sep-*
 13 *tember 14, 1995.*

14 (2) *BINDING CONTRACTS.—The amendments re-*
 15 *ferred to in paragraph (1) shall not apply to any*
 16 *benefit arising from a transaction pursuant to any*
 17 *written contract which was binding on September 13,*
 18 *1995, and at all times thereafter before such trans-*
 19 *action occurred.*

20 (3) *APPLICATION OF PRIVATE INUREMENT RULE*
 21 *TO TAX-EXEMPT ORGANIZATIONS DESCRIBED IN SEC-*
 22 *TION 501(c)(4).—*

1 (A) *IN GENERAL.*—*The amendment made*
 2 *by subsection (b) shall apply to inurement occur-*
 3 *ring on or after September 14, 1995.*

4 (B) *BINDING CONTRACTS.*—*The amendment*
 5 *made by subsection (b) shall not apply to any*
 6 *inurement occurring before January 1, 1997,*
 7 *pursuant to a written contract which was bind-*
 8 *ing on September 13, 1995, and at all times*
 9 *thereafter before such inurement occurred.*

10 ***SEC. 1312. REPORTING OF CERTAIN EXCISE TAXES AND***
 11 ***OTHER INFORMATION.***

12 (a) *REPORTING BY ORGANIZATIONS DESCRIBED IN*
 13 *SECTION 501(c)(3).*—*Subsection (b) of section 6033 (relat-*
 14 *ing to certain organizations described in section 501(c)(3))*
 15 *is amended by striking “and” at the end of paragraph (9),*
 16 *by redesignating paragraph (10) as paragraph (14), and*
 17 *by inserting after paragraph (9) the following new para-*
 18 *graphs:*

19 “(10) *the respective amounts (if any) of the taxes*
 20 *paid by the organization during the taxable year*
 21 *under the following provisions:*

22 “(A) *section 4911 (relating to tax on excess*
 23 *expenditures to influence legislation),*

1 “(B) section 4912 (relating to tax on dis-
 2 qualifying lobbying expenditures of certain orga-
 3 nizations), and

4 “(C) section 4955 (relating to taxes on po-
 5 litical expenditures of section 501(c)(3) organiza-
 6 tions),

7 “(11) the respective amounts (if any) of the taxes
 8 paid by the organization, or any disqualified person
 9 with respect to such organization, during the taxable
 10 year under section 4958 (relating to taxes on private
 11 excess benefit from certain charitable organizations),

12 “(12) such information as the Secretary may re-
 13 quire with respect to any excess benefit transaction
 14 (as defined in section 4958),

15 “(13) such information with respect to disquali-
 16 fied persons as the Secretary may prescribe, and”.

17 (b) *ORGANIZATIONS DESCRIBED IN SECTION*
 18 501(c)(4).—Section 6033 is amended by redesignating sub-
 19 section (f) as subsection (g) and by inserting after sub-
 20 section (e) the following new subsection:

21 “(f) *CERTAIN ORGANIZATIONS DESCRIBED IN SECTION*
 22 501(c)(4).—Every organization described in section
 23 501(c)(4) which is subject to the requirements of subsection
 24 (a) shall include on the return required under subsection

1 (a) the information referred to in paragraphs (11), (12) and
 2 (13) of subsection (b) with respect to such organization.”

3 (c) *EFFECTIVE DATE.*—The amendments made by this
 4 section shall apply to returns for taxable years beginning
 5 after the date of the enactment of this Act.

6 **SEC. 1313. EXEMPT ORGANIZATIONS REQUIRED TO PRO-**
 7 **VIDE COPY OF RETURN.**

8 (a) *REQUIREMENT TO PROVIDE COPY.*—

9 (1) Subparagraph (A) of section 6104(e)(1) (re-
 10 lating to public inspection of annual returns) is
 11 amended to read as follows:

12 “(A) *IN GENERAL.*—During the 3-year pe-
 13 riod beginning on the filing date—

14 “(i) a copy of the annual return filed
 15 under section 6033 (relating to returns by
 16 exempt organizations) by any organization
 17 to which this paragraph applies shall be
 18 made available by such organization for in-
 19 spection during regular business hours by
 20 any individual at the principal office of
 21 such organization and, if such organization
 22 regularly maintains 1 or more regional or
 23 district offices having 3 or more employees,
 24 at each such regional or district office, and

1 “(ii) upon request of an individual
2 made at such principal office or such a re-
3 gional or district office, a copy of such an-
4 nual return shall be provided to such indi-
5 vidual without charge other than a reason-
6 able fee for any reproduction and mailing
7 costs.

8 *The request described in clause (ii) must be made*
9 *in person or in writing. If the request under*
10 *clause (ii) is made in person, such copy shall be*
11 *provided immediately and, if made in writing,*
12 *shall be provided within 30 days.”*

13 (2) Clause (ii) of section 6104(e)(2)(A) is amend-
14 ed by inserting before the period at the end the follow-
15 ing: “(and, upon request of an individual made at
16 such principal office or such a regional or district of-
17 fice, a copy of the material requested to be available
18 for inspection under this subparagraph shall be pro-
19 vided (in accordance with the last sentence of para-
20 graph (1)(A)) to such individual without charge other
21 than reasonable fee for any reproduction and mailing
22 costs)”.

23 (3) Subsection (e) of section 6104 is amended by
24 adding at the end the following new paragraph:

1 “(3) *LIMITATION.*—Paragraph (1)(A)(ii) (and
 2 the corresponding provision of paragraph (2)) shall
 3 not apply to any request if, in accordance with regu-
 4 lations promulgated by the Secretary, the organiza-
 5 tion has made the requested documents widely avail-
 6 able, or, the Secretary determines, upon application
 7 by an organization, that such request is part of a
 8 harassment campaign and that compliance with such
 9 request is not in the public interest.”

10 (b) *INCREASE IN PENALTY FOR WILLFUL FAILURE TO*
 11 *ALLOW PUBLIC INSPECTION OF CERTAIN RETURNS, ETC.*—
 12 Section 6685 is amended by striking “\$1,000” and insert-
 13 ing “\$5,000”.

14 (c) *EFFECTIVE DATE.*—The amendments made by this
 15 section shall apply to requests made on or after the 60th
 16 day after the Secretary of the Treasury first issues the regu-
 17 lations referred to section 6104(e)(3) of the Internal Reve-
 18 nue Code of 1986 (as added by subsection (a)(3)).

19 ***SEC. 1314. INCREASE IN PENALTIES ON EXEMPT ORGANIZA-***
 20 ***TIONS FOR FAILURE TO FILE COMPLETE AND***
 21 ***TIMELY ANNUAL RETURNS.***

22 (a) *IN GENERAL.*—Subparagraph (A) of section
 23 6652(c)(1) (relating to annual returns under section 6033)
 24 is amended by striking “\$10” and inserting “\$20” and by
 25 striking “\$5,000” and inserting “\$10,000”.

1 (b) *LARGER PENALTY ON ORGANIZATIONS HAVING*
2 *GROSS RECEIPTS IN EXCESS OF \$1,000,000.*—Subpara-
3 *graph (A) of section 6652(c)(1) is amended by adding at*
4 *the end the following new sentence: “In the case of an orga-*
5 *nization having gross receipts exceeding \$1,000,000 for any*
6 *year, with respect to the return required under section 6033*
7 *for such year, the first sentence of this subparagraph shall*
8 *be applied by substituting ‘\$100’ for ‘\$20’ and, in lieu of*
9 *applying the second sentence of this subparagraph, the max-*
10 *imum penalty under this subparagraph shall not exceed*
11 *\$50,000.”*

12 (c) *EFFECTIVE DATE.*—*The amendments made by this*
13 *section shall apply to returns for taxable years ending on*
14 *or after the date of the enactment of this Act.*